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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA – LAS VEGAS**

23 JAMES ZAKO,
24 Plaintiff,
25 v.
26 HAMILTON COMPANY,
27 Defendant.
28

} Case No: 2:16-CV-00166-JCM-PAL
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}
PROPOSED DISCOVERY PLAN AND
SCHEDULING ORDER
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1 Plaintiff James Zako, by and through his counsel of record, Siegel LeWitter Malkani,
 2 and Defendant Hamilton Company, a Nevada corporation, by and through its counsel,
 3 McDonald Carano Wilson LLP, propose the following Joint Discovery Plan and Scheduling
 4 Order to the Court pursuant to Federal Rule of Civil Procedure 26(f)(3) and Local Rule 26-1:
 5

6 **Meeting of Counsel**

7 1. The Rule 26(f) meeting was held on **June 20, 2016** and attended telephonically
 8 by Heather Conger, counsel for the Plaintiff, and Jessica Woelfel, of McDonald Carano Wilson
 9 LLP, counsel for the Defendant.

10 **Alternative Dispute Resolution**

11 2. Counsel certifies that they met and conferred about the possibility of using
 12 alternative dispute-resolution process including mediation, arbitration, and early neutral
 13 evaluation. Counsel believes that alternative dispute resolution should be explored more fully
 14 once the Defendants' motion to dismiss has been ruled upon (which may significantly narrow
 15 the matter) and/or the motion for class certification has been ruled upon.

16 **Alternative Forms of Case Disposition**

17 3. Counsel certifies that they considered consent to trial by a magistrate judge under
 18 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order
 19 2013-01). The parties are not willing at this time to use these options.

20 **Subjects of Discovery**

21 4. Discovery will be made on all claims asserted by Plaintiff and all defenses asserted
 22 by Defendant. The parties have agreed that discovery shall commence as to Mr. Zako only until
 23 the Court issues a ruling on the pending motion to dismiss, at which time the parties will meet and
 24 confer to discuss whether the scope of discovery should be expanded.

25 **Initial Disclosures**

26 5. Plaintiffs and Defendants shall provide their initial disclosure statements and
 27 documents to respective counsel by **July 18, 2016**.

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1 Issues Related to Disclosure or Discovery of Electronically Stored Information

2 6. The parties do not believe that this case involves the use or misuse of electronic
 3 documents and/or systems. However, with respect to the production of electronically stored
 4 information, to the extent feasible, the parties agree that relevant electronically stored information,
 5 if any, will be exchanged by the parties in paper or in PDF format.

6 Issues Relating to Claims of Privilege or Attorney Work Product

7 7. A party who produces a document protected from disclosure by the attorney-client
 8 privilege, attorney work product doctrine or any other recognized privilege ("privileged
 9 document") without intending to waive the claim of privilege associated with such document may
 10 promptly, meaning within fifteen (15) days after the producing party actually discovers that such
 11 inadvertent disclosure occurred, amend its discovery response and notify the other party that such
 12 document was inadvertently produced and should have been withheld. Once the producing party
 13 provides such notice to the requesting party, the requesting party must promptly, meaning within
 14 seventy-two (72) hours, return the specified document(s) and any copies thereof. By complying
 15 with this obligation, the requesting party does not waive any right to challenge the assertion of
 16 privilege and request an order of the Court denying such privilege.

17 Limits on Discovery

18 8. At this time, discovery will be conducted in accordance with the Federal Rules of
 19 Civil Procedure and applicable Local Rules of the District Court, without limitation or
 20 modification of the same.

21 Discovery Cut-Off

22 9. The parties have agreed to submit a modified discovery plan once the Court has
 23 ruled on the pending motion to dismiss. The motion may limit the scope of the action, and will
 24 impact discovery cut off dates.

25 Amended Pleadings and Added Parties

26 10. Any motions to amend the pleadings or add parties should be filed within 30 days
 27 of the Court's ruling on the pending Motion to Dismiss or as otherwise ordered by the Court.

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1 Expert Disclosures

2 11. The parties have agreed to submit a modified discovery plan once the Court has
 3 ruled on the pending motion to dismiss. The motion may limit the scope of the action, and will
 4 impact expert disclosure deadlines.

5 Dispositive Motions

6 12. The parties have agreed to submit a modified discovery plan once the Court has
 7 ruled on the pending motion to dismiss. The motion may limit the scope of the action, and will
 8 impact dispositive motion deadlines.

9 Joint Pretrial Order

10 13. The parties have agreed to submit a modified discovery plan once the Court has
 11 ruled on the pending motion to dismiss. The motion may limit the scope of the action, and will
 12 impact the date of the Joint Pretrial Order.

13 Pretrial Disclosures

14 14. The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections thereto
 15 shall be included in the Joint Pretrial Order.

16 Interim Status Report

17 15. The parties will file an Interim Status Report and Amended Proposed Discovery
 18 Plan and Scheduling Order with the Court within 30 days of the Court's ruling on the pending
 19 Motion to Dismiss. The parties will again discuss consent to trial by a magistrate judge under 28
 20 U.S.C. § 636(c) and Fed. R. Civ. P. 73, use of the Short Trial Program (General Order 2013-01),
 21 and the use of alternative dispute-resolution processes including mediation, arbitration, and early
 22 neutral evaluation prior to the submission of this report.

23 Extension of Deadlines

24 16. Pursuant to Local Rule 26-4, a motion or stipulation to extend any deadline set
 25 herein must be received by the Court no later than 21 days before the expiration of the subject
 26 deadline. A request made within 21 days of the subject deadline must be supported by a showing
 27 of good cause.

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Settlement

17. The parties have agreed to engage in settlement discussions after the Court rules on the pending Motion to Dismiss.

Protective Orders and Judicial Intervention

5 18. The parties do not currently anticipate the need for the entry of any Order from the
6 Court pursuant to Fed. R. Civ. P. 26(c) or 16(b) and (c).

DATED: June 29, 2016

SIEGEL LEWITTER MALKANI

By: /s/ Heather Conger
Jonathan H. Siegel
Heather Conger

Attorneys for Plaintiff

14 | DATED: June 29, 2016

McDONALD CARANO WILSON, LLP

By: /s/ Jessica Woelfel
Jessica L. Woelfel
Laura R. Jacobsen

Attorneys for Defendant

IT IS SO ORDERED this 9th day
of August, 2016.

Peggy A. Leen
United States Magistrate Judge